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09/746,205	12/22/2000	Charles L. Brabenac	884.336US1	1318

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EXAMINER

TRUJILLO, JAMES K

ART UNIT	PAPER NUMBER
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2185

DATE MAILED: 11/28/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/746,205

Applicant(s)

BRABENAC, CHARLES L.

Examiner

James K. Trujillo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 . 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The office acknowledges the receipt of the following and placed of record in the file: IDS dated 8/20/01.
2. Claims 1-29 are presented for examination.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "port identifier" as per claims 1, 12 and 23 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

4. Claim 4, 15, 19 and 25 is objected to because of the following informalities:
  - a. As line 2 of claim 4, "receiving information from the host computer" should be changed to "receiving information from a host computer" because this is the first recitation of a host computer and it is interpreted that the host computer receives the information from a remote computer. Also, "the determining element" on line 3 of the claim should be changed to "a determining element" because this is the first recitation of an element.

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b. As to claims 15, 19 and 25 “the determining element” on line 3, 5 and 3 of the respective claims should be changed to “a determining element” because this is the first recitation of an element.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 4, 6-8 and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Graham-Cumming, Jr, U.S. Patent 6,182,146 (hereinafter Graham).

7. As to claim 1, Graham taught a method comprising:

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- a. receiving a packet (raw packet data) at a port filter (packet analysis module 100, figure 3), wherein the packet comprises a port identifier (Destination Port, figures 1 and 2);
- b. determining whether there is host application associated (application identifier on line 209, figure 3) with the port identifier [also 605, 607 and 611, figure 6 and corresponding text]; and
- c. when there is not a host application associated with the port identifier, discarding the packet [623 figure 6, col. 7 lines 51-54 and col. 11 lines 14-19].

Specifically, Graham taught receiving a packet with a port identifier at a filter. The filter (packet analysis module) then determines if there is a host application associated with the port identifier. If there is not a host application associated with the packet, the packet is discarded.

8. As to claim 4, Graham teaches the method according to claim 1 described above.

Graham further teaches receiving information from a host computer and using the information to carry out a determining element [col. 2 lines 41-44 and col. 5 lines 24-28]. Specifically, Graham teaches that the information is passed to an application associated with an application on a host computer where a determining element is carried out (the packet is processed).

9. As to claim 6, Graham taught the method according to claim 4 described above. Graham further teaches wherein the information comprises data, wherein the data (port data) describes a host application [col. 5 line 59 through col. 6 line 4]. Specifically, Graham teaches extracting data from the packet including the port number that is used to identify an associated host

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application. Furthermore, it is inherent that data with the packet would be used by an application if the application were found.

10. As to claim 7, Graham taught the method according to claim 4 described above. Graham further teaches wherein the information comprises data, wherein the data (port data) describes a port identifier [col. 5 line 59 through col. 6 line 4]. Specifically, Graham teaches extracting data from the packet including the port data that is used to identify an associated host application.

11. As to claim 8, Graham taught the method according to claim 1, described above. Graham further teaches detecting a port in use by the host application (application to port mapping table) [col. 5 line 66 through col. 6 line 1]. Graham also teaches selecting information based on the port in use by the host application (application identifier) [col. 6 lines 4-10]. Finally, Graham teaches sending information to the port filter, wherein the port filter uses the information carry out the determining element (determines which application is appropriately handle the packet and the packet is sent to an application for processing) [col. 6 lines 18-21 and col. 7 lines 43-45].

12. As to claims 10 and 11, Graham taught the method according to claim 8 described above. Claims 10 and 11 are further rejected for the same reasons as set forth in the rejections of claims 6 and 7 respectively.

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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14. Claims 2-3, 5, 9 and 12-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham, U.S. Patent 6,182,146, in view of Applicant's admitted prior art (AAPA).

15. As to claim 2, Graham taught the method according to claim 1 described above. Graham teaches that a packet is sent to the host computer when there is a host application assigned to the port [619, figure 6]. Graham does not expressly disclose wherein when there is a host application assigned to the port, *sending a wake-up message to a host computer* [emphasis added].

AAPA teaches on page 2 lines 7-14 that when a packet reaches its final destination it is detected a sleeping host computer is sent a wake-up message. The host computers are sleeping to reduce power. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Graham to reduce power by putting the host computer to sleep then sending a wakeup message when there is a host application assigned to the port corresponding to the packet. One of ordinary skill in the art would have made the modification because this would allow power consumption to be reduced while still being able to respond only to an appropriate packet, which is desirable in Graham.

16. As to claim 3, Graham and AAPA taught the method according to claim 2 described above. AAPA further taught receiving the wake-up message at the host computer on page 2 lines 7-14. AAPA also teaches changing the host computer from a power-managed state to an operational state within the same paragraph.

17. As to claim 5, Graham taught the method according to claim 4 described above. Graham does not expressly disclose wherein the information comprises executable instructions. In

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summary, Graham describes determining which applications are to receive packets base on a port identifier for processing, but does not describe the information in the packet.

AAPA taught wherein the information comprises executable instructions (access its resources such as applications or services) [page 2 lines 10-14].

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Graham by having the information comprise executable instruction as taught by AAPA, because it would desirably allow other hosts on the network to access its application or services.

18. As to claim 9, Graham taught the method according to claim 8 described above. Claim 9 is further rejected for the same reasons as set forth hereinabove in the rejection of claim 5.

19.

20. As to claim 12, Graham taught a signal-bearing media comprising instructions, wherein the instructions when read and executed by a processor comprise:

- a. receiving a packet (raw packet data) at a port filter (packet analysis module 100, figure 3), wherein the packet comprises a port identifier (Destination Port, figures 1 and 2);
- b. determining whether there is host application associated (application identifier on line 209, figure 3) with the port identifier [also 605, 607 and 611, figure 6 and corresponding text];

Graham does not expressly disclose wherein when there is a host application associated with the port identifier, *sending a wake-up message to a host computer* [emphasis added].



AAPA teaches on page 2 lines 7-14 that when a packet reaches its final destination it is detected a sleeping host computer is sent a wake-up message. The host computers are sleeping to reduce power. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Graham to reduce power by putting the host computer to sleep then sending a wakeup message when there is a host application assigned to the port corresponding to the packet. One of ordinary skill in the art would have made the modification because this would allow power consumption to be reduced while still being able to respond only to an appropriate packet, which is desirable in Graham.

21. As to claim 13, Graham combined with AAPA taught the signal-bearing media according to claim 12 described above. Graham further taught wherein when there is not a host application assigned to the port, discarding the packet [623 figure 6, col. 7 lines 51-54 and col. 11 lines 14-19].

22. As to claim 14, Graham combined with AAPA taught the claimed method therefore the also teach the claimed signal-bearing media.

23. As to claim 15, Graham combined with AAPA taught the signal-bearing media according to claim 12 described above. Graham further teaches receiving information from a host computer and using the information to carry out a determining element [col. 2 lines 41-44 and col. 5 lines 24-28]. Specifically, Graham teaches that the information is passed to an application associated with an application on a host computer where a determining element is carried out (the packet is processed).

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24. As to claim 16, Graham together with AAPA taught the instruction according to claim 15 as described above. AAPA further taught wherein the information comprises executable instructions (access its resources such as applications or services) [page 2 lines 10-14].

25. As to claim 17, Graham together with AAPA taught the signal-bearing media according to claim 15 as described above. Graham further teaches wherein the information comprises data, wherein the data (port data) describes a host application [col. 5 line 59 through col. 6 line 4]. Specifically, Graham teaches extracting data from the packet including the port number that is used to identify an associated host application. Furthermore, it is inherent that data with the packet would be used by an application if the application were found.

26. As to claim 18, Graham together with AAPA taught the signal-bearing media according to claim 15 as described above. Graham further teaches wherein the information comprises data, wherein the data (port data) describes a port identifier [col. 5 line 59 through col. 6 line 4]. Specifically, Graham teaches extracting data from the packet including the port data that is used to identify an associated host application.

27. As to claim 19, Graham together with AAPA taught the signal-bearing media according to claim 12 described above. Graham further teaches detecting a port in use by the host application (application to port mapping table) [col. 5 line 66 through col. 6 line 1]. Graham also teaches selecting information based on the port in use by the host application (application identifier) [col. 6 lines 4-10]. Finally, Graham teaches sending information to the port filter, wherein the port filter uses the information carry out the determining element (determines which application is appropriately handle the packet and the packet is sent to an application for processing) [col. 6 lines 18-21 and col. 7 lines 43-45].

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28. As to claims 20-22, they are rejected for the same reasons as set forth in the rejections of claims 16-18 respectively.

29. As to claims 23-29, Graham together with AAPA taught the claimed signal-bearing media therefore they also teach the claimed apparatus.

### *Conclusion*

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,584,122 to Matthews et al. This patent teaches a packet with a port identifier.

U.S. Pat. No. 5,978,855 to Metz et al. This patent teaches using packets containing executable code.

U.S. Pat. No. 5,903,566 to Flammer. This patent teaches using packets containing executable code.

WO 99/16225 to Elgressy et al. This patent teaches using a data packet with executable code.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James K. Trujillo whose telephone number is (703) 308-6291.

The examiner can normally be reached on M-F (7:30 am - 5:00 pm) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Lee can be reached on (703) 305-9717. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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James Trujillo

November 24, 2003

A handwritten signature in black ink, appearing to read "Thomas Lee", written in a cursive style.

THOMAS LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100